G.T. 5-13-95

COURTS

Ruling bolsters Amendment 2

Cincinnati gay rights ban upheld

By **Angela Dire**
Gazette Telegraph

A federal court of appeals on Friday upheld a ban on gay rights laws that is almost identical to Colorado's Amendment 2, arguing such measures do not on any level violate the constitutional right to equal protection.

The court's unanimous decision in a Cincinnati case stung some gay rights activists and provided proponents of Amendment 2 with a precedent when they defend the Colorado law before the U.S. Supreme Court this fall.

"This is the first federal court of appeals to deal directly with this issue," said Colorado Attorney General Gale Norton. "This will be very important authority in the U.S. Supreme Court."

Amendment 2, which would ban laws protecting gays from discrimination based on their sexual orientation, was passed by the state's voters in November 1992 but immediately challenged. The Colorado Supreme Court has declared the law unconstitutional, arguing that it denies gays and lesbians a fundamental right to participate in the political process on equal footing with other groups. It is on appeal to the U.S. Supreme Court.

One year after the Colorado vote, Cincinnati residents passed an amendment to their city charter also prohib-

See **RULING**/A3

STATUS OF COLORADO'S AMENDMENT 2

The U.S. Supreme Court agreed in February to review the constitutionality of Colorado's ban on gay rights. Last month, proponents of Amendment 2 submitted their written arguments defending the law. Sometime this month, opponents of the amendment will file their arguments. The court is expected to schedule oral arguments on the measure this fall. A decision could be issued by next spring.

OPINION

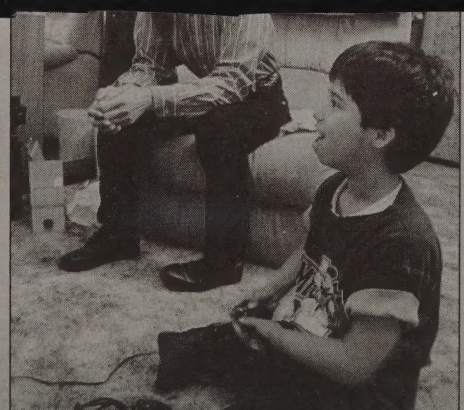
▶ **GROWTH:** We know we cannot just switch to cruise control and expect Colorado Springs to remain unaffected by growth. Unfortunately, we've already lost key opportunities, writes City Councilman Bill Guman./**A9**

CITY/REGION

▶ **HISTORIC LODGE DESTROYED:** In 1929, Spencer Penrose built a large log cabin on the north shore of a reservoir used to supply water to The Broadmoor. On Wednesday, the 3,000-square-foot log cabin, home to the reservoir's caretaker, burned to the ground./**B4**

BUSINESS

▶ **VEHICLE SALES DOWN:** A slowing national economy and uncertainty over cutbacks at Fort Carson combined to reduce El Paso County new



LIFESTYLE

bara Sinatra Children's Fund for abused children.

Feeling hoodwinked

The 30 yarmulkes **Sandy Koufax** thought he was autographing for students ended up making someone a profit — they were sold for $75 each. "This has changed my outlook," the Hall of Fame pitcher said in Friday's New York Post. "It makes me wonder whether trying to be nice to people is the same as asking for trouble." Koufax, who is Jewish, said he was told the skullcaps were to be given as awards to students at a Jewish religious school. Instead, B&J Collectibles sold them. "All the yarmulkes have been sold," said a woman who answered the phone Friday at the Lakewood, N.J., business. As for Koufax's contention that he was told other-

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dismantled everythin
home. The brief flurry
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people. "It has been a
ple for this little town
Mayor Billie Cherry.

Out of his syste

Fred Grandy calls him
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Grandy, the former Re
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played Gopher on TV's
Boat," spoke Thursday
will awards dinner.

Gazette Telegraph news

Ruling/Court rejects Colorado judges' reasoning

From A1

iting the local government from passing laws to protect gays from discrimination. That law, too, was declared unconstitutional by a U.S. District Court judge. He adopted the reasoning of the Colorado Supreme Court but also went a step further. He found that gays as a class, like women, deserve protection from the courts because of their history of discrimination.

But on Friday, the highest court yet to look at the issue rejected both arguments. What's more, it embraced much of the reasoning that the Colorado attorney general will use to defend Amendment 2 before the U.S. Supreme Court.

First, the 6th U.S. Circuit Court of Appeals decided that gays and lesbians are not like women, racial minorities and other groups who have a unique history of discrimination. The court based that decision on Bowers vs. Hardwick, a 1986 U.S. Supreme Court case upholding the constitutionality of laws that make homosexual sodomy a crime.

Secondly, the court specifically rejected the political participation theory of the Colorado Supreme Court. The Cincinnati law "deprived no one of the right to vote," Norton quoted the court as saying. "Homosexuals remain empowered to vote for City Council members and lobby those council members concerning issues of interest."

The Colorado court had relied on two U.S. Supreme Court cases in defending its theory. But the federal court argued that those cases, which involved racial minorities, do not apply to gays and lesbians, Norton said.

Finally, the federal court decided that the Cincinnati law met even the lowest standard of review. That is when courts decide whether there's a "rational basis" for a law.

In the case of the Cincinnati law, the federal court decided there was.

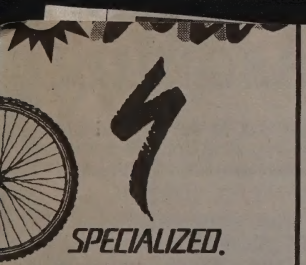
"The court said the measure reduced government regulation of the private, social and economic conduct of Cincinnati residents," Norton said.

The decision is a significant one not only because it deals directly with the issues in Amendment 2 but also because it comes from a panel of judges who are "fairly middle of the road; they're not considered either particularly liberal or particularly conservative," Norton said.

Gay rights activists said the U.S. Supreme Court is not bound or even beholden to agreeing with the court below it.

"This is not a worrisome ruling," said Suzanne Goldberg, an attorney with the Lambda Legal Defense Fund in New York who has worked on the Cincinnati and Colorado cases. "We will challenge it along with Amendment 2 before the U.S. Supreme Court and are optimistic that both will be struck down."

Still, in a news release, the defense fund called the decision "a surprising and serious setback for lesbian and gay civil rights."



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